

REMARKS

In accordance with the forgoing, claims 1, 6, 21, 27 and 31 have been amended, and claims 5, 11-15 and 20 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1-4, 6-10, 16-19 and 21-34 are pending and under consideration.

I. Claim Rejections – 35 USC § 102

Claims 1, 2, 5-8, 11-13, 16, 17, 20-22, 25-28, 31 and 32 stand rejected under 35 U.S.C. 102(b) as being anticipated by Kim et al. (2002/0183637, hereinafter "Kim").

The present invention is directed to a method of generating a template in an implantable medical device that maximizes the probability of collecting slow, non-paced beats during the sample collection process from which to generate the template during a template generation process. In particular, once consecutive beats are found to be non-paced beats, a determination is made as to whether a subsequent predetermined number of beats are non-paced beats, and if the predetermined number of subsequent beats are non-paced beats, a cross-match is computed by matching one non-paced beat against another non-paced beat of the predetermined number of non-paced beats and the template is generated based only on the predetermined number of non-paced beats.

Kim teaches calculating and checking the average rate and regularity of sensed R-waves and suspending the template update if the rate is too fast or if the regularity is not regular. In particular, Kim teaches determining whether an average rate of 20 beats is less than a predetermined interval, and whether at least 50% of 20 beats are regular, and if so, then suspending template generation. However, Kim does not teach matching one non-paced beat against another non-paced beat of the predetermined number of non-paced beats to generate cross matches, set forth in the present application. Accordingly, for this reason, withdrawal of the rejections of claims is respectfully requested.

II. Claim Rejections – 35 USC § 103

Claims 5, 6, 14, 15, 19 and 23 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kim. As discussed above, Kim does not teach or suggest matching one non-paced beat against another non-paced beat of the predetermined number of non-paced beats to generate cross-matches, set forth in the present application. Accordingly, withdrawal of the rejections is respectfully requested for the reasons set forth above.

III. Double Patenting Rejection

Claims 1-6, 11, 12, 27-30 and 31-33 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 and 20-23 of copending Application No. 10/826618. Applicants acknowledge and will address the rejection once claims have been allowed.

IV. Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

JIAN CAO ET AL.

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Date

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